IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 3206 OF 2005

IN

APPEAL NO.935 of 2005

IN

NOTICE OF MOTION NO. 1140 OF 2003

IN

SUIT NO.1057 OF 2003

Narayan R.Gowda S/o Raju Gowda .. Appellant

versus

Nehal Shah & Anr. .. Respondents

...

Mr.P.K.Samdani i/b Mr.M.G.Gawde for the Appellant

Mr.D.D.Madan i/b Mr.Anil Mishra for the respondent no.1

CORAM : R.M. LODHA AND
D.G. KARNIK, JJ

DATED : 28th November 2005.

P.C.:

1. Heard.

2. We asked the learned counsel for the appellant

whether the appellant is prepared to make available one flat for which an agreement was entered into between the plaintiff and the defendant no.1.

3. There was no positive response from the learned counsel for the appellant.

4. We are of the view that in the light of the agreement for sale dated 1st January 2000 and the earlier agreement of sale dated 5th June 1998 entered into between the plaintiffs and the defendant no.1 and the memorandum of understanding between the defendant no.1 and the appellant, there is prima facie case in favour of the plaintiff. In the circumstances, we are not inclined to stay the operation of the impugned order. However, liberty to the parties to apply for appropriate order after the Court Receiver submits the report pursuant to the impugned order.

5. Notice of Motion stands disposed of.

(R.M. LODHA, J)

(D.G. KARNIK, J)